IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 37261 of 2007(J)

PETITIONER:

M/S.ARTECH POWER PRODUCTS LTD.,
'ANITHA' 2ND FLOOR, ELAMKULAM,
COCHIN - 682020,
REPRESENTED BY ITS MANAGING DIRECTOR,
SRI.I.V.VIJAYAN.

BY ADV. SRI.RAJU JOSEPH

RESPONDENTS:

----

1. **THE SALES TAX OFFICER, 2ND CIRCLE,**
   TRIPUNITHURA.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   OFFICE OF THE DEPUTY COMMISSIONER,
   DEPARTMENT OF COMMERCIAL TAXES,
   M.G.ROAD, ATLANTIS, KOCHI - 682 015.

3. **THE SPECIAL TAHSILDAR (R.R.),**
   KANAYANNOOR TALUK, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 37261 of 2007

Dated: December 17, 2007

JUDGMENT

Petitioner has filed appeals before the 2nd respondent for the period 1995-96 to 1999-2000. It is now stated that the appeals have been heard on 12.12.2007. Earlier, when coercive action was taken, petitioner had approached this court by filing WP(C) 23659/2007. That writ petition was disposed of directing the Appellate Authority to dispose of the appeal within six weeks of production of a copy of the judgment. It was also directed that if the petitioner does not clear the sustained arrears within three months, there will be a direction to the petitioner to hand over possession of immovable properties to the respondents and the respondents are free to dispose of the assets for realisation of arrears of tax. Petitioner submits that since the appeal has not been disposed of till now, the respondents do not have the liberty given in Ext.P3 to proceed against the properties. It is pointed out that despite this, by Ext.P4, sale is now scheduled to take place on

29.12.2007 and hence this writ petition.

2. As noticed above, since the appeal itself is directed to be disposed of, then it is only after orders are passed in the appeal, can the respondents proceed to dispose of the immovable properties of the petitioner. In view of this, the sale now scheduled to take place on 29.12.2007 has to be postponed until orders are pronounced on the appeal itself.

3. In view of this I direct that further proceedings pursuant to Ext.P4 be deferred for two weeks after orders are pronounced in the appeal that was already heard on 12.12.2007. It is needless to say that this will not affect the recovery proceedings if the petitioner has any other liability to the department.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-